

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

INDEX NO: 10006/11

FILED
HARRISBURG, PA

OCT 25 2021

Ella Card et al.,

Plaintiff,

PER


DEPUTY CLERK

v.

NOTICE OF REMOVAL OF STATE

Nicholas Turner et al

COURT ACTION TO FEDERAL COURT

Defendant,

NOTICE OF REMOVAL OF STATE COURT ACTION TO FEDERAL COURT

COMES NOW, Plaintiffs Ella Card et al. pro-se who respectfully pleads and NOTICES THE CLERK OF THIS COURT AND PARTIES and shows this court as follows:

1. Plaintiffs, and in direct support of his Notice to this Court and all parties, hereby alleges and provides the following: Notice of Removal of this State court action to the United States District Court Middle District of Pennsylvania.
2. By the filing of this Notice with the Clerk of this state Court, together with the attached and corresponding Notice of Removal that was filed in the United States District Court today, October 25, 2021 under U.S. District Court Case No. 21-cv-01288, Stamped Civil Cover Sheet from Federal Court along with Notice of Removal and Pleadings from this action, these state proceedings are now REMOVED, by automatic operation of federal law, and this Defendant now formally notifies the Court and all parties of that same fact.
3. Pursuant to the express and specific language of 28 U.S.C. 1441, et seq., immediately upon the filing of this Notice, with the Clerk of this Court, this case has been already removed. The removal of jurisdiction from this Court is automatic by operation of federal law and does not require any additional written order from the District Judge to cause this removal to become “effective” – the removal is an automatic judicial event and immediate by operation of law.
4. Put another way, the United States Supreme Court clarified and established in 1966: “The petition is now filed in the first instance in the federal court. After notice is given to all adverse parties and a copy of the petition is filed with the state court, removal is effected and State Court proceedings cease unless the case is remanded. 28 U. S. C. § 1446 (1964 ed.). See generally,

American Law Institute, Study of the Division of Jurisdiction Between State and Federal Courts, Tentative Draft No. 4, p. 153 et seq. (April 25, 1966).” *Georgia v. Rachel*, 384 U.S. 780, 809 n27, 86 S. Ct. 1783, 16 L. Ed. 2d 925 (1966). (emphasis added).

5. Because this cause is now removed, the instant Court is without jurisdiction to effect any judgment in these proceedings or hold trial or other action until when and if remanded. (28 U.S.C. § 1446(c)(3)).

6. Once a matter is removed to the federal court, a state trial court and its judges have no jurisdiction over the matter and cannot dismiss it.

“On the removal, the State Supreme Court lost jurisdiction of the case. (Title 28 U.S.C. s 1446(e); *Fire Assn. of Philadelphia v. General Handkerchief Corp.*, 304 N.Y. 382, 385, 107 N.E.2d 499, 500). Neither Special Term’s lack of knowledge of the removal, nor the subsequent grant by the Federal Court of petitioner’s motion for remand, is sufficient to validate its order signed after the removal became effective.”

7. Under 28 USC § 1446, provides:

“Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of the court of such State Court, which shall effect the removal and the State Court shall proceed no further unless and until the case is remanded.” *Vigil v. Mora Independent Schools*, 841 F. Supp. 2d 1238, 1240-41 (D.N.M. 2012)

“Removal of case to federal court is automatic on proper filing of petition with federal court for removal, and state court is thereafter preempted and divested of any authority or discretion to rule or pass upon merits of case. 28 U.S.C.A. § 1446.”

“The removal is deemed automatic merely upon the proper filing of the petition with the Federal Court; and thereafter this Court is pre-empted and divested of any authority or discretion rule or pass upon the merits of these cases pending in our Court or the proper venue of removal to the Federal Court, Southern District of New York.” *The People of the State of New York, Plaintiff, v. Goldwag* 42 Misc.2d 356.

“Once the underlying actions were removed to the United States District Court for the Southern District of New York by the filing of the notice of removal with the state court, the state court no longer had jurisdiction to rule on plaintiff’s motions (see 28 U.S.C. § 1446; *Clayton v. American Fedn. of Musicians*, 243 A.D.2d 347, 664 N.Y.S.2d 534 [1st Dept.1997]).”

The Notice of Removal to the United States District Court is attached hereto as required by the express language of federal law, as Exhibit # 1.

WHEREFORE, the undersigned Plaintiff, Ella Card et al notifies the Court and all other parties that this cause is now removed, that this court now has absolutely no jurisdiction for any judgment in this cause, bar none, unless and until the United States District Court may or may not remand, and further moves for all other relief that is just and proper in the premises.

We pray this honorable court will proceed no further due to lack of jurisdiction including providing and injunction against Defendants from furthering an adverse position on the Plaintiffs due to jurisdiction is in the United States District Middle Court of Pennsylvania.

Dated this 25 day of October 2021

Respectfully Submitted,



Ken Swenson et al.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been served via email or fax to the following on this day 25 October 2021:

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